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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,303	02/28/2002	David McMorrow	S63.2-9719	2109

490 7590 07/07/2005

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

SAM, CHARLES H

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,303

Applicant(s)

MCMORROW ET AL.

Examiner

Charles H. Sam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-20, 27, 28 and 31-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-26, 29, 30, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/8/02, 6/9/03, 6/12/03, 7/19/02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 21-24,26,29,30 are rejected under 35 U.S.C. 102(e) as being anticipated by Whalen et al. 2002/0107540. Whalen discloses a balloon having a central portion and a plurality of wings including at least one first wing wrapped in a first direction about the central portion of the balloon and at least one second wing wrapped in a second direction opposite the first direction about the central portion of the balloon. Whalen also teaches a plurality of first wings, a plurality of second wings, and T-shaped structures 261. See figures 4 and 4a.

2. Claims 25,39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whalen et al. 2002/0107540 in view of Butaric et al. 6033380. Whalen discloses the invention as claimed except for an overlapping relationship between the first wing and the adjacent second wing. However, Butaric discloses a balloon 50 comprising a plurality of wings 70 overlapping with each other. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Whalen

by having the wing overlapping with the second wing in view of Butaric to facilitate removal of the catheter and balloon from the blood vessel.

Regarding claims 39 and 40, note figure 4 of the Butaric et al. reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaudoin et al. (6,296,655) in view of Hillstead (5,116,318). Gaudoin discloses a balloon 15 comprising a plurality of wings 25 wrapped about the inner tubular member 18. Gaudoin discloses the invention as claimed except for the first wing wrapped in a first direction and the second wing wrapped in a second direction opposite the first direction about the central portion of the balloon. However, Hillstead discloses a balloon having a central portion and a plurality of wings including at least one first wing wrapped in a first direction about the central portion of the balloon and at least one second wing wrapped in a second direction opposite the first direction about the central portion of the balloon. See figures 4 and 8. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Gaudoin by having wings wrapping in opposite direction in view of Hillstead to provide frictional engagement between the outer edges of the wings and the stent.

Response to Arguments

Applicant's arguments filed 3/2/05 have been fully considered but they are not persuasive. The applicant arguments stating that the splines 260 of Whalen et al. are not medical balloons, or part of medical balloons, which have a contracted condition and expandable to an expanded condition are not correct because the splines 260 can be inflated or deflated by inflation or deflation of fluid.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H. Sam whose telephone number is (571) 272-4703. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 22, 2005


ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER

5/24/05